



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2017-0361]

Hours of Service of Drivers: Application for Exemption; American Disposal Services, Inc. (ADS)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA announces that American Disposal Services, Inc. (ADS) has requested an exemption from the requirement that a motor carrier install and require each of its drivers to use an electronic logging device (ELD) to record the driver's hours-of-service (HOS) no later than December 18, 2017. ADS further requested an exemption from the required use of paper records of duty status (RODS). ADS requests these exemptions for all of its operators of a commercial motor vehicle (CMV) in their company and their affiliates. FMCSA would extend the exemption to all carriers with similar operational scenarios if the exemption were granted in entirety or in part. ADS advises that ELD systems cannot accurately record driving time for a CMV that stops at each house along their trash and recycling residential routes, with the driver often leaving the vehicle. ADS believes that the exemptions, if granted, will achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent the exemptions. FMCSA requests public comment on the ADS application for exemptions.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER.]

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Number FMCSA-2017-0361 by any of the following methods:

- Federal eRulemaking Portal: www.regulations.gov. See the Public Participation and Request for Comments section below for further information.
- Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.
- Hand Delivery or Courier: West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- Fax: 1-202-493-2251
- Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to www.regulations.gov, including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to www.regulations.gov at any time or visit Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line FDMS is available 24 hours each day, 365 days each year.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as

described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

FOR FURTHER INFORMATION CONTACT: For information concerning this notice, contact Mr. Thomas Yager, Chief, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 614-942-6477. E-mail: MCPSD@dot.gov. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA-2017-0361), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comments online, go to www.regulations.gov and put the docket number, “FMCSA-2017-0361” in the “Keyword” box, and click “Search.” When the new screen appears, click on “Comment Now!” button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an

individual or on behalf of a third party, and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may grant or not grant this application based on your comments.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also

specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Request for Exemptions

American Disposal Services, Inc. (ADS) is a trash hauling and recycling company with over 300 commercial driver's license (CDL) drivers servicing over 390,000 customers in four states with more than 400 commercial motor vehicles (CMVs). Each route has 800-1,200 stops/customers per day. Their drivers, on the average, service a home every 22 seconds and exit the truck about one-third to one-half of the time to assist the laborer.

ADS has been using the multiple stop rule, "treating all the stops in a village, town or city as one." (See Regulatory Guidance Question 6 to Section 395.8.) The drivers leave the yard on driving time and at the first stop on the route they change their status to on-duty, not-driving time for next 500 stops. When it is time to go to the landfill, the drivers change their status from not-driving time back to driving. ADS operations fall under the 100 air-mile short haul exemption in Section 395.1(e)(1). However, they currently exceed the 12-hour limitation more than 8 times in any 30 consecutive days per driver, and would therefore be required to use ELDs.

ADS applies for the exemption from the required use of ELDs and paper logs as they state that there is no ELD that can accurately record driving time when the CMV makes constant short movements with the driver often exiting the vehicle.

ADS states that the considerable investment in equipment, training, and extra manpower required to use ELDs would not assist them to meet the FMCSA regulations,

and, which according to them, would result in a significant financial burden and “waste of money.”

IV. Method to Ensure an Equivalent or Greater Level of Safety

According to ADS, safety will not be affected unless one considers less distracted time by not using an ELD, which would be an improvement. ADS believes that paper logs or ELDs for their type of operation will not improve safety. The use of an ELD that cannot calculate the multiple stops would result in inaccurate data. such as actual time spent driving.

A copy of ADS’s application for exemptions is available for review in the docket for this notice.

Issued on: December 22, 2017.

Larry W. Minor
Associate Administrator for Policy

[FR Doc. 2017-28122 Filed: 12/29/2017 8:45 am; Publication Date: 1/2/2018]